

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8910 of 2020

Sweta Kumari, Wife of Abhishek Kumar, Resident of Village-Rampur
Bakhara, P.S.-Bhagwanpur, District-Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of Excise and Prohibition, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Superintendent of Excise, Vaishali at Hajipur.
5. The Officer-in-Charge, Bhagwanpur, P.S. District-Vaishali at Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shanti Bhushan Singh, Adv.

For the Respondent/s : Mr.Vikash Kumar SC-11

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 01-12-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

“(i) For direction to the respondents to release the vehicle Motorcycle bearing Registration No. BR 31AG-4105 in the favour of the petitioner seized in connection with Bhagwanpur P.S. Case No. 176 of 2019.

(ii) For any other relief/relieves which is entitled to the petitioner in accordance with law.”



Informant is a police officer who has alleged in FIR that on 21.07.2019 he received a secret information that a liquor party is going on in the poultry form of Abhishek Kumar and on receipt of said information he along with other police personnel raided said place and found that 5 persons were sitting in a room and they were nabbed by the police and from the rooms 4 bottles containing 1.290 liter of foreign liquor was recovered and from outside the poultry form two motorcycles without any registration number were parked and arrested culprits could not produce the ownership documents of the said vehicle as such it was presumed that the motorcycles are stolen motorcycles and same were seized giving rise to Bhagwanpur P.S. Case No. 176 of 2019 dated 21.07.2019 under section 414 of Indian Penal Code and 30(A) of Excise Act.

As there is no recovery of illicit liquor from the seized motorcycle and FIR was instituted it to be stolen motorcycle as such the seized motorcycle is not liable for confiscation under Section 58 of the Excise Act and Bar of jurisdiction in confiscation under Section 60 of the Excise Act will not be applicable and as such Special Court Excise has jurisdiction to pass order with respect to seized motorcycle accordingly the order dated 22.11.2019 passed by Special



Court, Excise Vaishali at Hajipur in Bhagwanpur P.S. Case No. 176 of 2019 is set aside and Special Court Excise is directed to pass a fresh order on the petition filed by the petitioner for release of her seized motorcycle within 30 days from the date of receipt/production of a copy of order passed by the Court.

The writ petition is accordingly disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2020
Transmission Date	NA

